

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

JEREMY JOHNSON, individually, as officer of  
Defendants I Works, Inc.; Cloud Nine, Inc.;  
CPA Upsell, Inc.; Elite Debit, Inc.; Internet  
Economy, Inc.; Market Funding Solutions, Inc.;  
and Success Marketing, Inc.; as a member of  
Defendant Network Agenda LLC; and as the *de*  
*facto* principal of numerous Defendant Shell  
Companies; I WORKS, INC., *et al.*,

Defendants.

Case No.: 2:10-cv-02203-RLH-GWF

**ORDER**

(Motion to Strike—#243)

Before the Court is Plaintiff Federal Trade Commission's **Motion to Strike Affirmative Defenses From the Second Amended Answer** (#243, filed June 15, 2011). The Court has also considered Defendants' Jeremy Johnson, Cloud Nine Marketing, Inc., CPA Upsell, Inc., Elite Debit, Inc., Internet Economy, Inc., Market Funding Solutions, Inc., Success Marketing, Inc., and I Works, Inc.'s Opposition (#257, filed July 5) and Plaintiff's Reply (#260, filed July 12).

The Court summarily denies this motion. Defendants are required to raise affirmative defenses because failing to do so constitutes of waiver of any non-raised defense. *Metcalf v. Golden (In re Adbox, Inc.)*, 488 F.3d 836, 842 n.2 (9th Cir. 2007); Fed R. Civ. P. 8(c). Therefore, the Court is unwilling to strike the affirmative defenses, some of which are fact intensive, until Defendants have the opportunity to establish their defenses through discovery.

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1 Accordingly, and for good cause appearing,

2 IT IS HEREBY ORDERED that Plaintiff's Motion to Strike (#243) is DENIED.

3 Dated: September 30, 2011.

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6 **ROGER L. HUNT**  
7 **United States District Judge**  
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